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SUBJECT: PALAU -- 2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHE

REF: (A) STATE 59732 (B) STATE 005577

¶1. This is an action cable; see paras 5 through 7 and 10.

¶2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

¶3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Palau of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Palau and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and 00B local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/not precede the Secretary's release at 10:00 am EDT on June 16.

¶4. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

¶5. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and 00B local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Palau of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

¶6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they

may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of Palau's country narrative in the 2009 TIP Report:

Palau (TIER 2)

Palau is a transit and destination country for a small number of women trafficked from the Philippines and the People's Republic of China (PRC) for purpose of commercial exploitation, and for a small number of men from the Philippines, the PRC and Bangladesh for the purpose of forced labor. Some employers recruit foreign men and women to work in Palau through fraudulent representation of contract terms and conditions of employment. These foreign workers willingly migrate to Palau for jobs in domestic service, agriculture, or construction, but are subsequently coerced to

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work in situations significantly different than what their contracts stipulated) excessive hours without pay, confiscation of their travel documents, and the withholding of salary payments as a means of controlling their movement; these conditions may be indicative of involuntary servitude. Some workers are also threatened by their employers, and some women expecting to work as waitresses or clerks, are forced into commercial sexual exploitation in karaoke bars and massage parlors. Since the late 1990s, the Philippines government banned its nationals from migrating to Palau to serve as domestic workers.

The Government of Palau does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the reporting period, the government continued its law enforcement and prosecution efforts against trafficking offenders. Victim services and efforts to raise public awareness of human trafficking, however, remained limited.

Recommendations for Palau: Increase efforts to investigate, prosecute, and punish trafficking offenders; monitor employment agents recruiting foreign men and women for work in Palau to prevent trafficking for labor exploitation; establish formal procedures to identify and refer trafficking victims to protective services; work with NGOs or international organizations, as appropriate, to provide additional services to victims; and develop and conduct anti-trafficking information and education campaigns.

Prosecution

The Government of Palau made minor progress in its law enforcement and prosecution efforts against trafficking offenders during the reporting period. The Anti-Smuggling and Trafficking Act of 2005 prohibits all forms of trafficking in persons. Its sufficiently stringent penalties, ranging from ten to 50 years, imprisonment and fines up to \$500,000, are commensurate with penalties prescribed for other serious crimes, such as rape. Despite limited resources and a relatively small number of victims, Palau prosecuted and convicted four trafficking offenders in ¶2007. These traffickers had forced 15 Filipinas and nine Chinese waitresses into commercial sexual exploitation and subjected them to food deprivation, confinement, and illegal salary deductions. One of the traffickers appealed his conviction in 2008. In February 2009, the conviction was

reversed and the case against the trafficker was dismissed without prejudice, meaning it can be refiled. There were no other investigations, prosecutions, or convictions during the reporting period. The government did not train law enforcement officers to proactively identify victims or to identify trafficking victims among vulnerable populations, such as foreign women in prostitution.

Protection

The government of Palau offered minimal protective services to victims of trafficking over the reporting period. No long-term protective services were available to victims, and Palauan government agencies did not employ formal procedures to identify and refer trafficking victims for the services which were available. The government did not identify or assist any victims of trafficking during the year although it has done so in the past. A religious organization provided limited assistance to victims of any crime. In the past, its services were available to trafficking victims and would be made available again, as needed. Palauan law does not penalize victims for illegal acts committed as a direct result of being trafficked, and encourages victims to assist in the investigation and prosecution of trafficking offenders. The government does not remove victims to countries where they may face hardship or retribution. In 2007, Filipina and Chinese victims were offered the choice of remaining in Palau and seeking different employment or returning home.

Prevention

The government made no discernable efforts to prevent human trafficking through planned campaigns to educate the public about its dangers, but publicized its anti-trafficking activities at least twice during the year. Government agencies cooperated with each other, with foreign governments, and with international organizations on trafficking matters. No detailed information about Palau's national plan to address trafficking was available at the time of this Report's drafting. Palau Customs, Immigration and Police have formed a four-person training team which has created an identity crime training program for government employees, to help them recognize false documents which might be used by traffickers. Palau also improved its immigration controls, in part to deter trafficking in persons, in

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accordance with its participation in the Pacific Regional Immigration Identity Project and the Pacific Immigration Directors Conference. The government made no discernable efforts to address the demand for commercial sex acts or the demand for forced labor during the reporting period. Palau has not ratified the 2000 UN TIP Protocol.

¶ 9. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA

and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 13. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance)

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with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of

the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or though the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1: Why was Palau placed on the 2009 Report? Why was it given a ranking of Tier 2?

A: Palau was placed on the TIP Report this year because there is evidence that it is a country of origin, transit, or destination for victims of severe forms of trafficking. Palau was given a Tier 2 ranking because the Government of Palau does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the reporting period, the government continued its law enforcement and prosecution efforts against trafficking offenders. Victim services and efforts to raise public awareness of human trafficking, however, remained limited.

Q2: What is the nature of the trafficking situation in Palau?

A: Palau is a transit and destination country for a small number of women trafficked from the Philippines and the People's Republic of China (PRC) for purpose of commercial exploitation, and for a small number of men from the Philippines, the PRC and Bangladesh for the purpose of forced labor. Some employers recruit foreign men and women to work in Palau through fraudulent representation of contract terms and conditions of employment. These foreign workers willingly migrate to Palau for jobs in domestic service, agriculture, or construction but are subsequently coerced to work in situations significantly different than what their contracts stipulated (excessive hours without pay, confiscation of their travel documents, and the withholding of salary payments are used as a means of controlling their movement. Some workers are also threatened by their employers and some women expecting to work as waitresses or clerks are forced into commercial sexual exploitation in karaoke bars and massage parlors. Since the late 1990s, Palau has been the subject of a Philippines government

deployment ban for domestic helpers.

Q3: How can Palau improve its anti-trafficking efforts?

A: The Government of Palau could increase efforts to investigate, prosecute, and punish trafficking offenders;

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monitor employment agents recruiting foreign men and women for work in Palau for compliance with existing labor laws; establish formal procedures to identify and refer trafficking victims to protective services; work with NGOs or international organizations to provide additional services to victims; and develop and conduct anti-trafficking information and education campaigns.

¶12. The Department appreciates posts, assistance with the preceding action requests.

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